

# Good news for landowners with appeal allowed under the Electronic Communications Code at the Upper Tribunal

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Finally some clarification well received in the Upper Tribunal (Lands Chamber) on the interaction between the Landlord and Tenant Act 1954 and the Electronic Communications Code.

Operators cannot seek to renew or revive rights under the Code after a court has refused a new tenancy under the 1954 Act.

This appeal was allowed by the Upper Tribunal on the basis it was not the intention of Parliament when they created the transitional provisions in the Digital Economy Act 2017.

Here On Tower had attempted to argue that operators could always seek Code rights irrespective of the reason why they had expired or been terminated. As here, the court had refused a new tenancy under the 1954 Act.

The First Tier Tribunal agreed with this argument and granted On Tower a new Code agreement.

The Upper Tribunal allowed the appeal from Gravesham Borough Council and clarified that once a court has refused a new tenancy under the 1954 Act an operator cannot then attempt to use the Code to obtain a fresh agreement.

This is helpful clarification when landowners are seeking to terminate agreements in order for redevelopment to take place and allows the certainty that these plans can proceed once the court has refused a new tenancy under the 1954 Act.

Please contact myself if you need specialist advice on Telecoms and termination of agreements.

## Contact



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